

## **Task Force to Study the Process for Bringing Criminal Cases in Situations of Violence Against Healthcare Workers**

This task force is charged with reviewing investigative and prosecutorial responses to violence perpetrated against health care workers. Many of us agree the primary reason why we find ourselves participating on this task force is because of the current deficiencies of our mental health system. We have heard testimony with real world examples revealing many of these acts of violence could have been avoided if our mental health system was equipped with enough infrastructure and staffing specifically qualified to treat patients who suffer from mental illness. Instead there are people who have to remain in emergency rooms and other unqualified treatment settings for extended periods of time awaiting long term placement for the treatment they require. Until we are able to solve these deficiencies which is the key to a long term solution, we find ourselves in the position of trying to suggest best practices under the conditions we have to work with.

### **Law Enforcement Recommendations**

1. *A law enforcement investigation requires **all** of the following circumstances in order to summons or arrest a person receiving mental health related treatment who has committed a violent act against a healthcare worker:*
  - a. A statement from a qualified healthcare provider articulating the competency of the suspect to include information required by the local district attorney for prosecution.
  - b. A cooperating victim willing to fill out a written affidavit (statement) providing a detailed description of the incident that matches the elements of the crime. The victim also needs to indicate they are willing to cooperate with the prosecution and possibly testify in a court proceeding.
  - c. Witness statements to the same effect of the victim statement.
  - d. Evidence (video, audio etc.) provided by the health care facility.
  - e. In a case of an arrest, medical clearance articulating the suspect is mentally and physically fit for incarceration authored by a qualified healthcare provider.
  - f. Also in the case of an arrest, the willingness of the local detention center to accept the suspect in question if they are unable to post bail.
  
2. *Reporting and Documentation of Violent Incidents*
  - a. Criminal acts should be reported to local law enforcement for investigation when:
    - i. The victim wants to cooperate with the investigation and prosecution.
    - ii. The circumstances of the violent act does **not** include an affirmative defense (i.e. being combative while being forced to take medication or while being physically restrained to a hospital bed). Healthcare providers should make

sure their procedures include security and other employees trained to resolve predictable violent situations with combative patients.

iii. Redington-Fairview General Hospital has employed the Skowhegan Police Department on a full-time basis to help address these exact situations. This has resulted in a significant reduction in violent encounters according to Chief David Bucknum.

b. All assaults where medical staff assert the perpetrator has requisite state of mind (no defense of mental abnormality) should be sent to the District Attorney for review when the investigation reveals the probable cause requirement is in question by the investigator.

### 3. *Personal Contact Information and Keeping Victims Informed*

a. A best practice should be that law enforcement allow hospital victims of violence to use the hospital contact information (hospital address and phone number) rather than personal contact information, when filing a complaint form with the police, if they are concerned about their safety.

b. Hospitals should create a point of contact for law enforcement, prosecutors and victim witness advocates who need to communicate with victims, and witnesses as cases move forward.

### 4. *17A Sec. 752-C should be broadened to include:*

a. **any worker** (*not just health care personnel – if you want to cover the security personnel, the janitor, administrative staff*)

b. **at any time** (*not just during the provision of emergency care – if you want to cover situations where the patient is residing in a hospital and not in an emergency situation*)

c. **at specified facilities**

a. All health care facilities and PNMI and long-term care facilities, or,

b. Entire hospitals campus only, or,

c. Hospital emergency rooms only,

d. Other

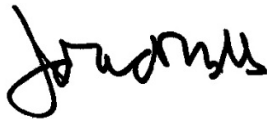
### 5. *Expand the Warrantless Arrest Statute to Cover Misdemeanor Assaults at Health Care Facilities is **not** necessarily required.*

a. Law Enforcement is not opposed to adding misdemeanor assaults at health care facilities to the warrantless arrest statute but is not necessarily required. The reason why law enforcement officers are not currently making misdemeanor arrests at healthcare facilities has much more to do with the inability to develop probable cause during the investigation than the warrantless arrest statute. In the majority of cases an arrest is not affected because the investigation lacks a statement from a qualified healthcare provider articulating the competency of the suspect to include

all of the other information required by the District Attorney for prosecution; or lack of cooperating by the victim; or the lack of a medical clearance for jail by a qualified healthcare provider; or the refusal of the jail to accept an arrest made under these circumstances. If all of the aforementioned requirements are collectively met then a law enforcement officer could still make a warrantless arrest for a misdemeanor crime based on the following exception that already exist in statute:

- i. (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- ii. B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime.
- iii. 2. For the purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime. An arrest made pursuant to subsection 1, paragraph B must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit.

It has been my distinct pleasure to participate on this task force in search of ways to keep our healthcare workers safe. These heroes deserve to work in an environment where they feel safe secure.



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Chief Jared J. Mills